

1                   **DISPOSITION OF STATE PROPERTY AMENDMENTS**

2                                   2024 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: David G. Buxton**

5                                   House Sponsor: Calvin R. Musselman

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7   **LONG TITLE**

8   **General Description:**

9           This bill modifies provisions related to the sale, long-term lease, or other disposition of  
10 state property.

11 **Highlighted Provisions:**

12           This bill:

13           ▶ modifies provisions related to the sale, long-term lease, or other disposition of real  
14 property, water rights, or water shares associated with the Utah State Developmental  
15 Center;

16           ▶ modifies the duties and the authority of the Division of Facilities Construction and  
17 Management (division);

18           ▶ modifies provisions related to the purchase or exchange of division-owned real  
19 property; and

20           ▶ makes technical changes.

21 **Money Appropriated in this Bill:**

22           None

23 **Other Special Clauses:**

24           This bill provides a special effective date.

25 **Utah Code Sections Affected:**

26 AMENDS:

27           **26B-6-507**, as renumbered and amended by Laws of Utah 2023, Chapter 308



28 **63A-5b-303 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapter

29 329

30 **63A-5b-303 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters

31 329, 394

32 **63A-5b-806**, as last amended by Laws of Utah 2022, Chapter 421

33 **63A-5b-902**, as last amended by Laws of Utah 2023, Chapter 263

34 **63A-5b-904**, as last amended by Laws of Utah 2022, Chapter 421

35 **63A-5b-905**, as last amended by Laws of Utah 2022, Chapter 421

36 **63A-5b-908**, as renumbered and amended by Laws of Utah 2020, Chapter 152

37 **63A-5b-909**, as last amended by Laws of Utah 2022, Chapter 101



39 *Be it enacted by the Legislature of the state of Utah:*

40 Section 1. Section **26B-6-507** is amended to read:

41 **26B-6-507. Utah State Developmental Center land and water rights.**

42 (1) As used in this section, "long-term lease" means:

43 (a) a lease with a term of five years or more; or

44 (b) a lease with a term of less than five years that may be unilaterally renewed by the  
45 lessee.

46 (2) (a) Notwithstanding Section **65A-4-1**, any sale, long-term lease, or other disposition  
47 of real property, water rights, or water shares associated with the developmental center ~~shall~~  
48 ~~be conducted as provided in this Subsection (2).~~ (b) The board shall: (i) ~~approve the sale,~~  
49 ~~long-term lease, or other disposition of real property, water rights, or water shares associated~~  
50 ~~with the developmental center;~~ (ii) ~~secure~~ requires the approval of the Legislature before  
51 ~~[offering]~~ the real property, water rights, or water shares may be offered for sale, long-term  
52 lease, or other disposition~~;~~ ~~and~~.

53 [(iii)] (b) ~~[if the Legislature's approval is secured]~~ If the Legislature approves the sale,  
54 long-term lease, or other disposition of real property, water rights, or water shares associated  
55 with the developmental center, as described in Subsection ~~[(2)(b)(ii), direct]~~ (2)(a), the  
56 Division of Facilities Construction and Management ~~[to]~~ shall convey, lease, or dispose of the  
57 real property, water rights, or water shares associated with the developmental center according  
58 to ~~[the board's determination]~~ Subsection 63A-5b-303(1)(a)(viii).

59 Section 2. Section **63A-5b-303 (Superseded 07/01/24)** is amended to read:

60 **63A-5b-303 (Superseded 07/01/24). Duties and authority of division.**

61 (1) (a) The division shall:

62 (i) subject to Subsection (1)(b), supervise and control the allocation of space, in  
63 accordance with legislative directive through annual appropriations acts, other legislation, or  
64 statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except  
65 as provided in Subsection (3) or as otherwise provided by statute;

66 (ii) assure the efficient use of all building space under the division's supervision and  
67 control;

68 (iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by  
69 the state or an agency, as authorized by the Legislature through an appropriation act, other  
70 legislation, or statute, subject to Subsection (1)(c);

71 (iv) except as otherwise provided by statute, hold title to all real property, buildings,  
72 fixtures, and appurtenances owned by the state or an agency;

73 (v) collect and maintain all deeds, abstracts of title, and all other documents evidencing  
74 title to or an interest in property belonging to the state or to the state's departments, except  
75 institutions of higher education and the trust lands administration;

76 (vi) (A) periodically conduct a market analysis of proposed rates and fees; and

77 (B) include in a market analysis a comparison of the division's rates and fees with the  
78 rates and fees of other public or private sector providers of comparable services, if rates and  
79 fees for comparable services are reasonably available;

80 (vii) fulfill the division's responsibilities under Part 10, Energy Conservation and  
81 Efficiency, including responsibilities~~[(A)]~~ to implement the state building energy efficiency  
82 program under Section ~~63A-5b-1002~~~~[, and]~~.

83 ~~[(B) related to the approval of loans from the State Facility Energy Efficiency Fund~~  
84 ~~under Section 63A-5b-1003;]~~

85 (viii) convey, lease, or dispose of the real property, water rights, or water shares  
86 associated with the Utah State Developmental Center if directed to do so by the ~~[Utah State~~  
87 ~~Developmental Center board]~~ Legislature, as provided in Subsection ~~26B-6-507(2)~~; ~~[and]~~

88 (ix) except as provided in Subsection (2)(c), convey, lease, or dispose of  
89 division-owned real property for fair market value, as determined by the division; and

90           ~~[(ix)]~~ (x) take all other action that the division is required to do under this chapter or  
91 other applicable statute.

92           (b) In making an allocation of space under Subsection (1)(a)(i), the division shall  
93 conduct one or more studies to determine the actual needs of each agency.

94           (c) The division may, without legislative approval, acquire title to real property for use  
95 by the state or an agency if ~~[the acquisition cost]~~:

96           (i) the acquisition cost does not exceed \$500,000[-], as estimated by the division; or

97           (ii) the real property is part or all of the consideration received in exchange for  
98 division-owned real property conveyed, leased, or disposed of under Subsection (1)(a)(ix).

99           (2) The division may:

100           (a) sue and be sued;

101           (b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or  
102 otherwise, and hold real or personal property necessary for the discharge of the division's  
103 duties; ~~[and]~~

104           (c) convey, lease, or dispose of vacant division-owned real property for less than fair  
105 market value, subject to the requirements of Part 9, Disposal of Division-owned Real Property;  
106 and

107           ~~[(e)]~~ (d) take all other action necessary for carrying out the purposes of this chapter.

108           (3) (a) The division may not supervise or control the allocation of space for an entity in  
109 the public education system.

110           (b) The supervision and control of the legislative area is reserved to the Legislature.

111           (c) The supervision and control of capitol hill facilities and capitol hill grounds is  
112 reserved to the State Capitol Preservation Board.

113           (d) (i) Subject to Subsection (3)(d)(ii), the supervision and control of the allocation of  
114 space for an institution of higher education is reserved to the Utah Board of Higher Education.

115           (ii) The Utah Board of Higher Education shall consult and cooperate with the division  
116 in the establishment and enforcement of standards for the supervision and control of the  
117 allocation of space for an institution of higher education.

118           (e) (i) Subject to Subsection (3)(e)(ii), the supervision and control of the allocation of  
119 space for the courts of record listed in Subsection 78A-1-101(1) is reserved to the  
120 Administrative Office of the Courts referred to in Subsection 78A-2-108(3).

121 (ii) The Administrative Office of the Courts shall consult and cooperate with the  
122 division in the establishment and enforcement of standards for the supervision and control of  
123 the allocation of space for the courts of record listed in Subsection 78A-1-101(1).

124 (4) Before the division charges a rate, fee, or other amount for a service provided by  
125 the division's internal service fund to an executive branch agency, or to a service subscriber  
126 other than an executive branch agency, the division shall:

127 (a) submit an analysis of the proposed rate, fee, or other amount to the rate committee  
128 created in Section 63A-1-114; and

129 (b) obtain the approval of the Legislature as required by Section 63J-1-410 or  
130 63J-1-504.

131 Section 3. Section 63A-5b-303 (Effective 07/01/24) is amended to read:

132 **63A-5b-303 (Effective 07/01/24). Duties and authority of division.**

133 (1) (a) The division shall:

134 (i) subject to Subsection (1)(b), supervise and control the allocation of space, in  
135 accordance with legislative directive through annual appropriations acts, other legislation, or  
136 statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except  
137 as provided in Subsection (3) or as otherwise provided by statute;

138 (ii) assure the efficient use of all building space under the division's supervision and  
139 control;

140 (iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by  
141 the state or an agency, as authorized by the Legislature through an appropriation act, other  
142 legislation, or statute, subject to Subsection (1)(c);

143 (iv) except as otherwise provided by statute, hold title to all real property, buildings,  
144 fixtures, and appurtenances owned by the state or an agency;

145 (v) collect and maintain all deeds, abstracts of title, and all other documents evidencing  
146 title to or an interest in property belonging to the state or to the state's departments, except  
147 institutions of higher education and the trust lands administration;

148 (vi) (A) periodically conduct a market analysis of proposed rates and fees; and

149 (B) include in a market analysis a comparison of the division's rates and fees with the  
150 rates and fees of other public or private sector providers of comparable services, if rates and  
151 fees for comparable services are reasonably available;

152 (vii) fulfill the division's responsibilities under Part 10, Energy Conservation and  
153 Efficiency, including responsibilities~~[-(A)]~~ to implement the state building energy efficiency  
154 program under Section [63A-5b-1002](#); ~~[and]~~

155 ~~[(B) related to the approval of loans from the State Facility Energy Efficiency Fund~~  
156 ~~under Section [63A-5b-1003](#)];~~

157 (viii) convey, lease, or dispose of the real property, water rights, or water shares  
158 associated with the Utah State Developmental Center if directed to do so by the ~~[Utah State~~  
159 ~~Developmental Center board]~~ Legislature, as provided in Subsection [26B-6-507\(2\)](#); ~~[and]~~

160 (ix) except as provided in Subsection (2)(c), convey, lease, or dispose of  
161 division-owned real property for fair market value, as determined by the division; and

162 ~~[(ix)]~~ (x) take all other action that the division is required to do under this chapter or  
163 other applicable statute.

164 (b) In making an allocation of space under Subsection (1)(a)(i), the division shall  
165 conduct one or more studies to determine the actual needs of each agency.

166 (c) The division may, without legislative approval, acquire title to real property for use  
167 by the state or an agency if ~~[the acquisition cost]~~:

168 (i) the acquisition cost does not exceed \$500,000[-], as estimated by the division; or

169 (ii) the real property is part or all of the consideration received in exchange for  
170 division-owned real property conveyed, leased, or disposed of under Subsection (1)(a)(ix).

171 (2) The division may:

172 (a) sue and be sued;

173 (b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or  
174 otherwise, and hold real or personal property necessary for the discharge of the division's  
175 duties; ~~[and]~~

176 (c) convey, lease, or dispose of vacant division-owned real property for less than fair  
177 market value, subject to the requirements of Part 9, Disposal of Division-owned Real Property;  
178 and

179 ~~[(c)]~~ (d) take all other action necessary for carrying out the purposes of this chapter.

180 (3) (a) The division may not supervise or control the allocation of space for an entity in  
181 the public education system.

182 (b) The supervision and control of the legislative area is reserved to the Legislature.

183 (c) The supervision and control of capitol hill facilities and capitol hill grounds is  
184 reserved to the State Capitol Preservation Board.

185 (d) (i) Subject to Subsection (3)(d)(ii), the supervision and control of the allocation of  
186 space for an institution of higher education is reserved to the Utah Board of Higher Education.

187 (ii) The Utah Board of Higher Education shall consult and cooperate with the division  
188 in the establishment and enforcement of standards for the supervision and control of the  
189 allocation of space for an institution of higher education.

190 (e) (i) Subject to Subsection (3)(e)(ii), the supervision and control of the allocation of  
191 space for the courts of record listed in Subsection 78A-1-101(1) is reserved to the  
192 Administrative Office of the Courts described in Section 78A-2-108.

193 (ii) The Administrative Office of the Courts shall consult and cooperate with the  
194 division in the establishment and enforcement of standards for the supervision and control of  
195 the allocation of space for the courts of record listed in Subsection 78A-1-101(1).

196 (4) Before the division charges a rate, fee, or other amount for a service provided by  
197 the division's internal service fund to an executive branch agency, or to a service subscriber  
198 other than an executive branch agency, the division shall:

199 (a) submit an analysis of the proposed rate, fee, or other amount to the rate committee  
200 created in Section 63A-1-114; and

201 (b) obtain the approval of the Legislature as required by Section 63J-1-410 or  
202 63J-1-504.

203 Section 4. Section 63A-5b-806 is amended to read:

204 **63A-5b-806. Division rules on the value of property bought or exchanged --**

205 **Exception.**

206 (1) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative  
207 Rulemaking Act, make rules to ensure that, if the division buys or exchanges real property, the  
208 value of the real property is congruent with the proposed price and other terms of the purchase  
209 or exchange.

210 (2) The rules:

211 (a) shall establish procedures for determining the value of the real property;

212 (b) may provide that an appraisal, as defined in Section 61-2g-102, demonstrates the  
213 real property's value; and

214 (c) may require that the appraisal be completed by a state-certified general appraiser, as  
 215 defined in Section [61-2g-102](#).

216 (3) The rules adopted under Subsection (1) do not apply to the purchase or exchange of  
 217 real property, or an interest in real property~~[-];~~:

218 (a) with a value of less than \$500,000, as estimated by the division~~[-];~~ or

219 (b) if the real property is part or all of the consideration received in exchange for  
 220 division-owned real property conveyed, leased, or disposed of under Subsection  
 221 [63A-5b-303](#)(1)(a)(ix).

222 Section 5. Section **63A-5b-902** is amended to read:

223 **63A-5b-902. Application of part.**

224 (1) ~~[The]~~ Except as stated in Subsection (1)(e), the provisions of this part, other than  
 225 this section, do not apply to:

226 (a) a conveyance, lease, or disposal under Subsection [63A-5b-303](#)(1)(a)(viii);

227 (b) the division's disposal or lease of division-owned property ~~[with]~~ that would  
 228 otherwise be subject to this part, if the division-owned property has a value under \$500,000, as  
 229 estimated by the division;

230 (c) a conveyance, lease, or disposal of division-owned property in connection with:

231 (i) the establishment of a state store, as defined in Section [32B-1-102](#); or

232 (ii) the construction of student housing; ~~[or]~~

233 (d) a conveyance, lease, or disposal of any part of the point of the mountain state land,  
 234 as defined in Section [11-59-102](#), by the Point of the Mountain State Land Authority created in  
 235 Section [11-59-201](#)~~[-];~~ or

236 (e) a conveyance, lease, or disposal of division-owned property for fair market value,  
 237 as determined by the division, under Subsection [63A-5b-303](#)(1)(a)(ix), except that the  
 238 following sections apply:

239 (i) Section [63A-5b-907.5](#);

240 (ii) Section [63A-5b-908](#);

241 (iii) Section [63A-5b-910](#);

242 (iv) Section [63A-5b-911](#); and

243 (v) Section [63A-5b-912](#).

244 (2) Nothing in Subsection ~~[(1)(b) or (c)]~~ (1)(b), (c), or (e) may be construed to diminish

245 or eliminate the division's responsibility to manage division-owned property in the best  
246 interests of the state.

247 Section 6. Section **63A-5b-904** is amended to read:

248 **63A-5b-904. Division authority with respect to vacant division-owned property --**

249 **Limitations.**

250 (1) Subject to Section **63A-5b-909**, the division may:

251 (a) provide for a primary state agency's occupancy or use of vacant division-owned  
252 property, if the director determines that the primary state agency's occupancy or use is in the  
253 best interests of the state;

254 (b) effect a transfer of ownership or lease of vacant division-owned property, as  
255 provided in this section; or

256 (c) refer vacant division-owned property to the Department of Transportation for sale  
257 by auction, as provided in Section **63A-5b-908**.

258 ~~[(2)(a) The division may effect a transfer of ownership or lease of vacant  
259 division-owned property to an applicant for fair market value if the director determines that the  
260 transfer of ownership or lease to that applicant is in the state's best interest.]~~

261 ~~[(b) In determining the state's best interest under Subsection (2)(a), the director may  
262 consider:]~~

263 ~~[(i) the price and financial terms of all qualified proposals; and]~~

264 ~~[(ii) the relative benefits to the state of the proposed uses of the vacant division-owned  
265 property as stated in the qualified proposals.]~~

266 ~~[(3)]~~ (2) The division may effect a transfer of ownership or lease of vacant  
267 division-owned property without receiving fair market value in return if:

268 (a) the director determines that the transfer of ownership or lease is in the best interests  
269 of the state;

270 (b) for a proposed transfer of ownership or lease to a local government entity, public  
271 purpose nonprofit entity, or private party, the director determines that the local government  
272 entity, public purpose nonprofit entity, or private party intends to use the property to fulfill a  
273 public purpose;

274 (c) the director requests and receives a recommendation on the proposed transfer of  
275 ownership or lease from the Legislative Executive Appropriations Committee;

276 (d) the director communicates the Executive Appropriations Committee's  
277 recommendation to the executive director; and

278 (e) the executive director approves the transfer of ownership or lease.

279 ~~[(4)]~~ (3) (a) If the division effects a transfer of ownership of vacant division-owned  
280 property without receiving fair market value in return, the division shall require the documents  
281 memorializing the transfer of ownership to preserve to the division:

282 (i) in the case of a transfer of ownership of vacant division-owned property to a  
283 secondary state agency, local government entity, or public purpose nonprofit entity for no or  
284 nominal consideration, a right of reversion, providing for the ownership of the property to  
285 revert to the division if the property ceases to be used for the public benefit; or

286 (ii) in the case of any other transfer of ownership of vacant division-owned property, a  
287 right of first refusal allowing the division to purchase the property from the transferee for the  
288 same price that the transferee paid to the division if the transferee wishes to transfer ownership  
289 of the former vacant division-owned property.

290 (b) Subsection ~~[(4)(a)]~~ (3)(a) does not apply to the sale of vacant division-owned  
291 property at an auction under Section [63A-5b-908](#).

292 Section 7. Section **63A-5b-905** is amended to read:

293 **63A-5b-905. Notice required before division may effect a transfer of ownership**  
294 **or lease of division-owned property for less than fair market value.**

295 (1) Before the division may effect a transfer of ownership or lease of vacant  
296 division-owned property for less than fair market value, the division shall give notice as  
297 provided in Subsection (2).

298 (2) A notice required under Subsection (1) shall:

299 (a) identify and describe the vacant division-owned property;

300 (b) indicate the availability of the vacant division-owned property;

301 (c) invite persons interested in the vacant division-owned property to submit a written  
302 proposal to the division;

303 (d) indicate the deadline for submitting a written proposal;

304 (e) be posted on the division's website for at least 60 consecutive days before the  
305 deadline for submitting a written proposal, in a location specifically designated for notices  
306 dealing with vacant division-owned property;

307 (f) be posted on the Utah Public Notice Website created in Section 63A-16-601 for at  
308 least 60 consecutive days before the deadline for submitting a written proposal; and

309 (g) be sent by email to each person who has previously submitted to the division a  
310 written request to receive notices under this section.

311 Section 8. Section 63A-5b-908 is amended to read:

312 **63A-5b-908. Referring vacant division-owned property to the Department of**  
313 **Transportation for auction.**

314 (1) The division may refer vacant division-owned property to the Department of  
315 Transportation for a public auction if:

316 (a) ~~[(f)]~~ for a conveyance, lease, or disposal of vacant division-owned property for less  
317 than fair market value:

318 (i) the division has provided notice under Section 63A-5b-905 with respect to the  
319 vacant division-owned property; and

320 (ii) the division receives no qualified proposals in response to the notice under Section  
321 63A-5b-905;

322 (b) the director determines that:

323 (i) there is no reasonable likelihood that within the foreseeable future:

324 (A) a primary state agency will use or occupy the vacant division-owned property; or

325 (B) a secondary state agency, local government entity, or public purpose nonprofit  
326 entity will seek a transfer of ownership or lease of the vacant division-owned property; and

327 (ii) disposing of the vacant division-owned property through a public auction is in the  
328 best interests of the state;

329 (c) the director requests and receives a recommendation on the proposed public auction  
330 from the Legislative Executive Appropriations Committee;

331 (d) the director communicates the Executive Appropriations Committee's  
332 recommendation to the executive director; and

333 (e) the executive director approves the public auction.

334 (2) If the division refers a vacant division-owned property to the Department of  
335 Transportation for public auction, the Department of Transportation shall publicly auction the  
336 vacant division-owned property under the same law and in the same manner that apply to a  
337 public auction of Department of Transportation property.

338 (3) At a public auction conducted under Subsection (2), the Department of  
339 Transportation may, on behalf of the division, accept an offer to purchase the vacant  
340 division-owned property.

341 (4) The division and the Department of Transportation shall coordinate together to:

342 (a) manage the details of finalizing any sale of the vacant division-owned property at  
343 public auction; and

344 (b) ensure that the buyer acquires proper title and that the division receives the net  
345 proceeds of the sale.

346 (5) If a public auction under this section does not result in a sale of the vacant  
347 division-owned property, the Department of Transportation shall notify the division and refer  
348 the vacant division-owned property back to the division.

349 Section 9. Section **63A-5b-909** is amended to read:

350 **63A-5b-909. State real property subject to right of first refusal.**

351 (1) (a) If Section [78B-6-520.3](#) applies to vacant division-owned property, the division  
352 shall comply with Subsection [78B-6-520.3\(3\)](#).

353 (b) If a condemnee accepts the division's offer to sell the vacant division-owned  
354 property as provided in Section [78B-6-520.3](#), the division shall:

355 (i) comply with the requirements of Section [78B-6-520.3](#); and

356 (ii) terminate any process [~~under this chapter~~] to convey the vacant division-owned  
357 property.

358 (c) A condemnee may waive rights and benefits afforded under Section [78B-6-520.3](#)  
359 and instead seek a transfer of ownership or lease of vacant division-owned property under the  
360 provisions of this chapter in the same manner as any other person not entitled to the rights and  
361 benefits of Section [78B-6-520.3](#).

362 (2) (a) If Section [78B-6-521](#) applies to the anticipated disposal of the vacant  
363 division-owned property, the division shall comply with the limitations and requirements of  
364 Subsections [78B-6-521\(2\)](#) and (3).

365 (b) If the original grantor or a subsequent bona fide purchaser, or the original grantor's  
366 or subsequent bona fide purchaser's assignee, accepts an offer for sale as provided in  
367 Subsection [78B-6-521\(2\)\(a\)](#), the division shall:

368 (i) sell the vacant division-owned property to the original grantor or subsequent bona

369 fide purchaser, or the original grantor's or subsequent bona fide purchaser's assignee, in  
370 accordance with Section [78B-6-521](#); and

371 (ii) terminate any process under this chapter to convey the vacant division-owned  
372 property.

373 (c) An original grantor or subsequent bona fide purchaser, or the original grantor's or  
374 subsequent bona fide purchaser's assignee, may waive rights afforded under Section [78B-6-521](#)  
375 and instead seek a transfer of ownership or lease of vacant division-owned property [~~under the~~  
376 ~~provisions of this chapter~~] in the same manner as any other person seeking a transfer of  
377 ownership or lease of vacant division-owned property to which Section [78B-6-521](#) does not  
378 apply.

379 Section 10. **Effective date.**

380 (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

381 (2) The actions affecting Section [63A-5b-303](#) (Effective 07/01/2024) take effect on  
382 July 1, 2024.